Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 12 of

Case: 19-10651 Date File²⁰

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04/10/2015 16:25 group, di law

(FAX)954 989 9999

P.003/033

Page 2 of 3

Claimant: Darren Mickell

received by the office of the undersigned on March 30, 2015, advised that Mr. Mickell must attend a medical examination by a physician or physicians selected by the Plan, at the Plan's expense and that the examination would likely take place within the next 30 days (Exhibit "5"). Mr. Mickell understands his obligations under the Plan and had no objection to the IMEs. However he did assume that he would be provided at least 10 days' notice, especially if the IMES were not going to be local. Moreover, Mr. Mickell was not advised that all IMEs reports had to be received by the Board on or before April 24, 2015 in order for his case to be heard at the May 15, 2015 meeting. That information was only disclosed after Mr. Banks was told that Mr. Mickell had two important and long-standing commitments on April 13th and April 20th and thus could not attend on those two dates. Mr. Mickell stated that he could make himself available April 14th and any day after April 20th (Exhibit "6").

By 1:30 this afternoon Mr. Mickell had not been notified of the rescheduled IME appointments. Accordingly, the undersigned sent an email to Mr. Banks asking for the new dates and letting him know that Mr. Mickell assumed the April 13th IME was cancelled since he had not heard anything (Exhibit "7"). Approximately two minutes later Mr. Banks sent an email advising that the IMEs were rescheduled to take place on April 14th and April 15th in St. Petersburg and Tampa, Florida and on April 27, 2015 in Durham, N.C. (Exhibit "8"). The undersigned noted to Mr. Banks that was incredibly short notice and that every effort will be made to contact Mr. Mickell and advise him of the new dates (Exhibit "9"). Additionally, the undersigned contacted the travel agent assigned to handle the IME travel arrangements for Mr. Mickell to let him know of these last minute travel plans and that it may be necessary for him to follow up with Mr. Mickell. At this time several efforts have been made to contact Mr. Mickell, but he appears to be unavailable. As such, Mr. Banks has been told that due to the short notice and the fact that Mr. Mickell is still unaware that he is being requested to attend an IME on Monday and Tuesday of next week, it is possible that the IMEs will need to be cancelled (Exhibit "10"). It was also requested that he confirm that there will be no penalty assessed against Mr. Mickell and that he provide a copy of the Plan's travel expense policy as indicated in the Notice letters (Exhibit "10"). At this time, there has been no response from Mr. Banks.

The delays in scheduling and notifying Mr. Mickell of the IMEs have now caused unnecessary and unreasonable delays in the review of this matter. It appears that Mr. Mickell will now have to wait until the August 15, 2015 meeting for his claim to be reviewed. He is thus requesting that the Board expedite the receipt and review of Dr. Ford's neuropsychological report so that a decision in his case can be made at the May 15th Board Meeting.

Finally, please note that that in accordance with his legal rights under Florida law, Mr. Mickell again requests that you allow him to have the IMEs videotaped by a 3rd, independent party. I will arrange for the videographer and



Case: 19-10651 Date File $\frac{200}{100}$ 5/10/2019 Page: 2 of 53

04/10/2015 16:26 group, di law

(FAX)954 989 9999

P.004/033

Page 3 of 3

Claimant: Darren Mickell

pay the expense. As indicated previously, the videographer will not be intrusive. A videotaped recording of the IMES would not only help ensure that Mr. Mickell' rights are protected, but also that the NFL Retirement Plan's rights are protected. In the event that the written report resulting from said IME is ever called into question or challenged, all parties involved can simply refer to the videotape of the IME to resolve any dispute.1 The courts reason that "by allowing the examination to be observed by a third party or videotaped, the potential harm to either party is reduced, not increased"2 The reason for this is that "if there is no court reporter or other third party present at the examination . . . a disagreement can arise between the plaintiff and the doctor concerning the events of the IME" Additionally, it was specifically addressed by these courts that "the concerns of physicians for conducting examinations without the distraction of third persons cannot outweigh the insured's rights."4 Please advise if you have changed your mind regarding this request. If not, Mr. Mickell does not waive his right to challenge the validity of the IME, as he will still appear as required under the Plan.

Please make sure that all medical and relevant documents necessary for the IME physicians to properly evaluate Mr. Mickell's claim are provided to each IME doctor. Any additional medical records will be sent to you to forward to those doctors as soon as they are available, which at this point will not be 10 days before the examinations.

Should you have any questions or wish to further discuss this matter, please do not hesitate to contact me at (954) 989-9000.

find L. Chmielarz,

For the Firm

Very truly yours,

cc: Alvaro Anillo via facsimile and Mail

¹ See U.S. Sec. Ins. Co. v. Cimino, 754 So.2d 697 (Fla. 2000).

⁴ Cimino, 754 So.2d 697.

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² <u>Cimino</u>, 754 So.2d 697, See also, <u>Byrd v. Southern Prestressed Concrete, Inc.</u>, 928 So.2d 455 (Fla. Ist DCA 2006)

³ Id. See also Wilkins v. Palumbo, 617 So.2d 850, 852 (Fla. 2d DCA 1993).

04/10/2015 16:26 group, di law

(FAX)954 989 9999

P.005/033

Darren Mickell Exhibit 1

Case: 19-10651 Date File 20 5/10/2019 Page: 4 of 53

04/10/2015 16:26 group, di law (FAX)954 989 9999

P.006/033

From: Elton Banks [mailto:ebanks@nflpb.org]
Sent: Tuesday, April 7, 2015 3:45 PM

To: mick4life92@yahoo.com Cc: Mindy Chmielarz Subject: Appointments

Mr. Mickell,

Attached are copies of the letters for your upcoming appeal evaluations.

Elton Banks Benefit Coordinator Phone: 1800-638-3186 ex.444 Fax: 410-783-0041

NFL Player Benefits 200 Saint Paul Street, Suite 2420 Baltimore, MD 21202

www.mygoalline.com



04/10/2015 16:26 group, di law

(FAX)954 989 9999

P.007/033

Darren Mickell Exhibit 2

P.008/033

04/10/2015 16:26 group, di law **NFL Player Benefits** 200 Saint Paul Street, Suite 2420 Baltimore, MD 21202

www.mygoalline.com



From: Mindy Chmielarz [mailto:Mindy@Dilawgroup.com]

Sent: Tuesday, April 07, 2015 4:01 PM

To: Elton Banks

Subject: RE: Appointments

Mr. Banks,

l just received the notices and will contact Mr. Mickell directly as he does not check his email regularly. However please note that you have scheduled him to attend IMEs in Tampa and St. Petersburg next week with less than 1 week notice. Moreover, you have asked us to get medical records to the Plan Office at least 10 days prior to the scheduled IME; however the IMEs are set to take place in the next 7 days. Accordingly, I will send them directly to the physician's office if Mr. Mickell is able to attend the out of town examinations on such short notice.

Mindy Chmielarz

Mindy Chmielarz | Partner

Paulino-Grisham, Smith & Chmielarz, P.A.

4151 Hollywood Blvd., Hollywood, Florida 33021 Ofc. 954.989.9000 | Fax. 954.989.9999 | Toll Free 1.888.644.2644 Email | Website

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P.009/033

Email | Website

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From: Elton Banks [mailto:ebanks@nflpb.org]

Sent: Tuesday, April 7, 2015 4:33 PM

To: Mindy Chmielarz Subject: RE: Appointments

Ms. Chmielarz,

I realize that the evaluations are only a week away, however we tried to do Mr. Mickell a courtesy by making his evaluations as close to his home as possible. These dates are the only dates that are available at the locations given that will allow us to receive the reports back in time for Mr. Mickell's case to be heard at our May 15th Board Meeting. If he is not able to attend the evaluations next week, we will need 48 hour notification that he will not be able to attend. Once we get that notification we will work on getting his evaluations rescheduled.

The deadline for the medical records to be submitted will not apply in this case because ample time was not given. However, if you still have further medical records to submit you can still send them to me at the Plan office and I will see that they are passed on to the physicians.

Thank You.

Elton Banks Benefit Coordinator Phone: 1800-638-3186 ex.444 Fax: 410-783-0041

NFL Player Benefits 200 Saint Paul Street, Suite 2420 Baltimore, MD 21202

www.mygoalline.com



From: Mindy Chmielarz [mailto:Mindy@Dilawgroup.com]

Sent: Tuesday, April 07, 2015 4:01 PM

3

04/10/2015 16:27 group, di law

(FAX)954 989 9999

P.010/033

Darren Mickell Exhibit 3

Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 20 of

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04/10/2015 16:27 group, di law

(FAX)954 989 9999

P.011/033



From: Elton Banks [mailto:ebanks@nflpb.org]

Sent: Tuesday, April 7, 2015 4:48 PM

To: Mindy Chmielarz **Subject:** RE: Appointments

Dr. Dunne is the neurologist and Dr. Ford is the neuro-psychologist.

Elton Banks

Benefit Coordinator

Phone: 1800-638-3186 ex.444

Fax: 410-783-0041

NFL Player Benefits 200 Saint Paul Street, Suite 2420 Baltimore, MD 21202

www.mygoalline.com



From: Mindy Chmielarz [mailto:Mindy@Dilawgroup.com]

Sent: Tuesday, April 07, 2015 4:44 PM

To: Elton Banks

Subject: RE: Appointments

Mr. Banks,

It appears that that the NFL is requiring Mr. Mickell to go through neuropsychological testing again. Please confirm what type of physician Dr. Dunne is and whether he will be administering a neuropsychological evaluation. Additionally, please advise what type of testing Dr. Sutapa Ford will be conducting as she is not a medical doctor and her specialty appears to be the treatment of headaches on an ongoing basis. As you are aware, Mr. Mickell has the right to be informed about the neutral physicians he will be seeing and the types of evaluations he is being asked to undergo.

Thank you for your anticipated cooperation. I look forward to your response.

DITAN GROUP

Mindy Chmielarz I Partner Paulino-Grisham, Smith & Chmielarz, P.A.

> 4151 Hollywood Blvd., Hollywood, Florida 33021 Ofc. 954.989,9000 | Fax. 954.989,9999 | Toll Free 1.888.644.2644

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04/10/2015 16:28 group, di law

(FAX)954 989 9999

P.012/033

Darren Mickell Exhibit 4

Case: 19-10651 Date Filed: 05/10/2019 Page: 11 of 53

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(FAX)954 989 9999

P.013/033

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Phone	Date March 9, 2015
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(FAX)954 989 9999

P.014/033

Darren Mickell Exhibit 5

04/10/2015 16:28 group, di law

(FAX)954 989 9999

P.015/033



NFL Player Disability & Neurocognitive Benefit Plan

200 Saint Paul Street, Suite 2420 | Baltimore, MD 21202 | 800-638-3186 | Fax 410-783-004

March 25, 2015

MAR \$ 0 2015

Mr. Darren Mickell 9250 Chelsea Dr. Miramar, FL 33025

Re: Appeal for Disability Benefits
Notice of Required Medical Examination

Dear Mr. Mickell:

We received your appeal for disability benefits. Under the terms of the NFL Player Disabilty & Neurocognitive Benefit Plan, a Player who applies for benefits may be required to submit to an examination by a physician or other medical professional selected by the Plan, and the Player may be required to submit to such further examinations as, in the opinion of the Plan, are necessary to make an adequate determination regarding the Player's physical or mental condition.

This letter is sent to advise you that **you must attend a medical examination** by a physician or physicians selected by the Plan, at the Plan's expense. The Plan Office will contact you shortly to schedule the examination(s), which for your planning purposes will likely take place within the next 30 days. Once scheduled, the Plan Office will send another letter confirming the date and location of the examination(s).

You (and your representatives, family, friends, etc.) may not contact the physician's office for any reason. If, for example, you wish to submit additional documents for review by the physician, you should contact the Plan Office. And, if you cannot attend a scheduled examination for any reason, you should contact the Plan Office immediately.

Please be advised that your application for disability benefits may be denied if you fail to attend the scheduled examination(s).

If you have any questions, please call the Plan Office.

Very truly yours

Elton D. Banks

Benefits Coordinator

cc. Mindy Chmielarz

04/10/2015 16:29 group, di law

(FAX)954 989 9999

P.016/033

Darren Mickell Exhibit 6

Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 26 of

Case: 19-10651 Date Filed 5/10/2019 Page: 15 of 53

04/10/2015 16:29 group, di law

(FAX)954 989 9999

P.017/033

Mindy Chmielarz

From:

Mindy Chmielarz

Sent:

Wednesday, April 8, 2015 10:33 AM

To:

'Elton Banks'

Cc:

Alicia Paulino-Grisham

Subject:

RE: Appointments

Mr. Banks,

This is in follow up to our telephone conversation this morning. As indicated, you did not provide Mr. Mickell with much time to make the arrangements necessary to attend three additional out-of-town IME appointments and he has advised that he is unable to attend the appointment scheduled with Dr. Dunne on Monday, April 13th. However, he is available on Wednesday, April 15th and would therefore like to reschedule to that date so that there is no further delay in the review of his claim. Additionally, he has a personal appointment scheduled on April 20th, but is available after that. Accordingly, if the appointment in North Carolina could be changed to the 21st that would be helpful. I have asked him to see if he can make himself available on April 20th if at all possible; accordingly, please do NOT cancel the April 20th appointment with Dr. Ford until you hear back from me.

My understanding from our conversation is that all medical reports have to be submitted to the Board by April 24, 2015 in order for them to be able to make a determination on Mr. Mickell's case at the May 15, 2015 meeting. Otherwise, a determination on his claim will be delayed another three months. While we certainly appreciate the time line considerations of the NFL, it should be noted that the NFL received the Appeal on March 9, 2015 and therefore has had almost 1 full month to schedule these appointments and advise Mr. Mickell of the dates. As such, Mr. Mickell asks that you please do your best to work with him so that his case can be heard at the May 15, 2015 meeting.

Thank you for your anticipated cooperation.

Sincerely,

Mindy Chmielarz

DE LAW GRODE

Mindy Chmielarz I Partner Paulino-Grisham, Smith & Chmielarz, P.A.

> 4151 Hollywood Blvd., Hollywood, Florida 33021 Ofc. 954.989.9000 | Fax. 954.989.9999 | Toll Free 1.888.644.2644 Email | Website

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04/10/2015 16:29 group, di law

(FAX)954 989 9999

P.018/033

Mindy Chmielarz

From:

Elton Banks <ebanks@nflpb.org>

Sent:

Wednesday, April 8, 2015 11:21 AM

To:

Mindy Chmielarz

Cc:

'mick4life92@yahoo.com'; Alicia Paulino-Grisham

Subject:

RE: Mickell IME Appointments

Ms. Chmielarz,

I can't confirm anything at this point. I will work on getting the evaluations rescheduled. Being able to get the exact dates that Mr. Mickell would like are not promised.

Elton Banks

Benefit Coordinator

Phone: 1800-638-3186 ex.444

Fax: 410-783-0041

NFL Player Benefits 200 Saint Paul Street, Suite 2420 Baltimore, MD 21202

www.mygoalline.com



From: Mindy Chmielarz [mailto:Mindy@Dilawgroup.com]

Sent: Wednesday, April 08, 2015 11:16 AM

To: Elton Banks

Cc: 'mick4life92@yahoo.com'; Alicia Paulino-Grisham

Subject: Mickell IME Appointments

Importance: High

Mr. Banks,

Unfortunately Mr. Mickell is unable to reschedule the appointment he has on April 20th. Accordingly, please reschedule the Tampa appointment with Dr. Dunne to April 15th and the April 20th appointment with headache specialist Sutapa Ford in North Carolina to April 21st. Also, please confirm that this one day extension will not delay the review of Mr. Mickell's claim beyond May 15th.

Again, your cooperation in this matter is greatly appreciated.

Sincerely,

Mindy Chmielarz

RBM 05/14/2015

1

Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 28 of

Case: 19-10651 Date Filed 5/10/2019 Page: 17 of 53

04/10/2015 16:30 group, di law

(FAX)954 989 9999

P.019/033

DE LAW GROUP

Mindy Chmielarz I Partner Paulino-Grisham, Smith & Chmielarz, P.A.

> 4151 Hollywood Blvd., Hollywood, Florida 33021 Ofc. 954.989.9000 | Fax. 954.989.9999 | Toll Free 1.888.644.2644 <u>Email | Website</u>

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04/10/2015 16:30 group, di law

(FAX)954 989 9999

P.020/033

Darren Mickell Exhibit 7

Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 30 of Case: 19-10651 Date Filed: 05/10/2019 Page: 19 of 53

04/10/2015 16:30 group, di law

(FAX)954 989 9999

P.021/033

Mindy Chmielarz

From:

Mindy Chmielarz

Sent:

Friday, April 10, 2015 1:33 PM

To:

'Elton Banks'

Subject:

RE: Mickell IME Appointments

Please let me know the rescheduled dates for the IMEs. Since I have not heard from you regarding the appointments for Monday and Tuesday I will assume that they have been cancelled.

As noted, Mr. Mickell would like his claim reviewed and resolved in a timely manner. It has been over 1 month since the Appeal was filed and thus it is not unreasonable to request that you reschedule these examinations as soon as possible. He is available any time after April 21st.

Your timely attention to this matter will be greatly appreciated.

Thank you.

Mindy Chmielarz

D LAW CROUP

Mindy Chmielarz I Partner

Paulino-Grisham, Smith & Chmielarz, P.A.

4151 Hollywood Blvd., Hollywood, Florida 33021 Ofc. 954.989.9000 | Fax. 954.989.9999 | Toll Free 1.888.644.2644 Email | Website

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From: Elton Banks [mailto:ebanks@nflpb.org]
Sent: Wednesday, April 8, 2015 11:21 AM

To: Mindy Chmielarz

Cc: 'mick4life92@yahoo.com'; Alicia Paulino-Grisham

Subject: RE: Mickell IME Appointments

Ms. Chmielarz,

I can't confirm anything at this point. I will work on getting the evaluations rescheduled. Being able to get the exact dates that Mr. Mickell would like are not promised.

RBM 05/14/2015

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MICKELL-1203

16:31 group, di law 04/10/2015

P.022/033

Darren Mickell Exhibit 8

04/10/2015 16:31 group, di law

(FAX)954 989 9999

P.023/033

Mindy Chmielarz

From:

Elton Banks <ebanks@nflpb.org>

Sent:

Friday, April 10, 2015 1:35 PM

To:

'mick4life92@yahoo.com'

Cc: Subject: Mindy Chmielarz

Subject: Attachments: Appointments 20150410131511799.pdf

Attached are copies of the rescheduled appointments.

Elton Banks

Benefit Coordinator

Phone: 1800-638-3186 ex.444

Fax: 410-783-0041

NFL Player Benefits 200 Saint Paul Street, Suite 2420 Baltimore, MD 21202

www.mygoalline.com



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Case: 19-10651 Date Filed: 05/10/2019 Page: 22 of 53

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(FAX)954 989 9999

P.024/033



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NFL Player Disability & Neurocognitive Benefit Plan

200 Saint Paul Street, Suite 2420 | Baltimore, MD 21202 | 800-638-3186 | Fax 410-783-0041

April 10, 2015

Mr. Darren Mickell 9250 Chelsea Dr. Miramar, FL 33025

Re: Application for Disability Benefits
Confirmation and Scheduling of Required Medical Examination

Dear Mr. Mickell:

We write to confirm that your medical examination has been scheduled as follows:

Appointment Date/Time:

Monday, April 27, 2015 8:30am-6:00pm Sutapa Ford, Ph.D.

Physician: . Specialty:

Neuro-Psychologist

Specialty: Location:

Carolina Headache Institute, PA

6114 Fayettteville Road Durham, NC 27713 (919)942-4424

On the day of your appointment, be sure to bring one form of photo identification with you to the examination and, after checking in at the facility, inform the receptionist that you are scheduled to see the physician identified above for purposes of a neutral examination conducted on behalf of the Bert Bell/Pete Rozelle NFL Player Retirement Plan.

Based upon the disabilities identified in your application, the physician will be prepared to evaluate any impairments to the following body parts:

 Neurocognitive, Headaches, Memory Issues, Concentration Issues, Word Loss, Focus Issues, Processing Issues, Following Direction Problems

If you have any additional medical records you would like the physician to review, you must provide those records to the Plan Office at least ten (10) days prior to the scheduled examination.

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For travel and planning purposes, be sure to allow approximately three to four hours for your examination and any follow-up testing the physician may require.

A copy of the Plan's Travel Expense Policy is enclosed. Please review it and contact Art Solis with "The Travel Store," (310) 752-9157, to arrange air transportation and lodging, if necessary.

You are reminded that you (and your representatives, family, friends, etc.) may not contact the physician's office for any reason. Please contact the Plan Office if you have any

04/10/2015 16:32 group, di law

(FAX)954 989 9999

P.025/033

as your application for disability benefits may be denied if you fail to attend the scheduled examination.

If you have any questions, please contact the Plan Office.

Very truly yours,

Elton Banks

Benefits Coordinator

cc: Mindy Chmielarz

Enclosure

04/10/2015 16:32 group, di law

(FAX)954 989 9999

P.026/033



NFL Player Disability & Neurocognitive Benefit Plan

200 Saint Paul Street, Suite 2420 | Baltimore, MD 21202 | 800-638-3186 | Fax 410-783-0041

April 10, 2015

Mr. Darren Mickell 9250 Chelsea Dr. Miramar, FL 33025

Re: Application for Disability Benefits

Confirmation and Scheduling of Required Medical Examination

Dear Mr. Mickell:

We write to confirm that your medical examination has been scheduled as follows:

Appointment Date/Time:

Wednesday, April 14, 2015 11:15am

Physician: Specialty:

George H. Canizares, M.D.

Specialty: Location: Orthopaedist All Florida Orthopaedist

St. Petersburg, FL 33703

(727)527-5272

On the day of your appointment, be sure to bring one form of photo identification with you to the examination and, after checking in at the facility, inform the receptionist that you are scheduled to see the physician identified above for purposes of a neutral examination conducted on behalf of the Bert Bell/Pete Rozelle NFL Player Retirement Plan.

Based upon the disabilities identified in your application, the physician will be prepared to evaluate any impairments to the following body parts:

Back, Shoulders, Hips, Knees

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Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 36 of Case: 19-10651 Date Filed: 05/10/2019 Page: 25 of 53

04/10/2015 16:32 group, di law

(FAX)954 989 9999

P.027/033

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If you have any questions, please contact the Plan Office.

Very truly yours,

Elton Banks

Benefits Coordinator

cc: Mindy Chmielarz

Enclosure

Case: 19-10651 Date Filed 5/10/2019 Page: 26 of 53

04/10/2015 16:32 group, di law

(FAX)954 989 9999

P.028/033



NFL Player Disability & Neurocognitive Benefit Plan

200 Saint Paul Street, Suite 2420 | Baltimore, MD 21202 | 800-638-3186 | Fax 410-783-004

April 10, 2015

Mr. Darren Mickell 9250 Chelsea Dr. Miramar, FL 33025

Re: Application for Disability Benefits

Confirmation and Scheduling of Required Medical Examination

Dear Mr. Mickell:

We write to confirm that your medical examination has been scheduled as follows:

Appointment Date/Timé:

Wednesday, April 15, 2015 10:00am

Physician:

Peter Dunne, M.D.

Specialty:

Neurologist

Location:

13801 North Bruce B Downs Blvd.

Tampa, FL 33613

(813)9880946

On the day of your appointment, be sure to bring one form of photo identification with you to the examination and, after checking in at the facility, inform the receptionist that you are scheduled to see the physician identified above for purposes of a neutral examination conducted on behalf of the Bert Bell/Pete Rozelle NFL Player Retirement Plan.

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Neurocognitive, Headaches, Memory Issues, Concentration Issues, Word Loss,
 Focus Issues, Processing Issues, Following Direction Problems

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Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 38 of Case: 19-10651 Date Filed: 05/10/2019 Page: 27 of 53

04/10/2015 16:33 group, di law

(FAX)954 989 9999

P.029/033

as your application for disability benefits may be denied if you fail to attend the scheduled examination.

If you have any questions, please contact the Plan Office.

Very truly yours,

Elton Banks

Benefits Coordinator

cc: Mindy Chmlelarz

Enclosure

04/10/2015 16:33 group, di law

(FAX)954 989 9999

P.030/033

Darren Mickell Exhibit 9

Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 40 of

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04/10/2015 16:33 group, di law

(FAX)954 989 9999

P.031/033

Mindy Chmielarz

From:

Mindy Chmielarz

Sent:

Friday, April 10, 2015 1:40 PM

To:

'Elton Banks'; 'mick4life92@yahoo.com'

Subject:

RE: Appointments

That's incredibly short notice. I will have Mr. Mickell contact your travel department to make sure arrangements can be made in sufficient time.

DELAWEROUP

Mindy Chmielarz | Partner

Paulino-Grisham, Smith & Chmielarz, P.A.

4151 Hollywood Blvd., Hollywood, Florida 33021 Ofc. 954.989.9000 | Fax. 954.989.9999 | Toll Free 1.888.644.2644 <u>Email | Website</u>

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.



From: Elton Banks [mailto:ebanks@nfipb.org]

Sent: Friday, April 10, 2015 1:35 PM

To: 'mick4life92@yahoo.com' Cc: Mindy Chmielarz Subject: Appointments

Attached are copies of the rescheduled appointments.

Elton Banks Benefit Coordinator

Phone: 1800-638-3186 ex.444

Fax: 410-783-0041

NFL Player Benefits 200 Saint Paul Street, Suite 2420 Baltimore, MD 21202

www.mygoalline.com

RBM 05/14/2015

1

04/10/2015 16:34 group, di law

(FAX)954 989 9999

P.032/033

Darren Mickell Exhibit 10

Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 42 of

Case: 19-10651 Date Filed 05/10/2019 Page: 31 of 53

16:34 group, di law 04/10/2015

(FAX)954 989 9999

P.033/033

Mindy Chmielarz

From:

Mindy Chmielarz

Sent:

Friday, April 10, 2015 2:30 PM

To:

'Elton Banks'

Subject:

RE: Appointments

Mr. Banks,

I have been unable to get in touch with Darren Mickell; but left him a voicemail message advising him of the new IME dates. As you sent this information on a Friday afternoon and he is being provided with less than 3 days to confirm his availability and that appropriate travel arrangements can be made, please confirm that there will be no penalty to Mr. Mickell if he advises that he cannot attend on Tuesday and Wednesday as scheduled.

Additionally, please forward to my attention a copy of the Plan's Travel Expense Policy as this was not included with any of the notices you emailed to Darren and me.

Thank you.

Sincerely,

Mindy Chmielarz

DI LAW GROUP

Mindy Chmielarz | Partner

Paulino-Grisham, Smith & Chmielarz, P.A.

4151 Hollywood Blvd., Hollywood, Florida 33021 Ofc. 954.989.9000 | Fax. 954.989.9999 | Toll Free 1.888.644.2644 Email | Website

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.



From: Elton Banks [mailto:ebanks@nflpb.org]

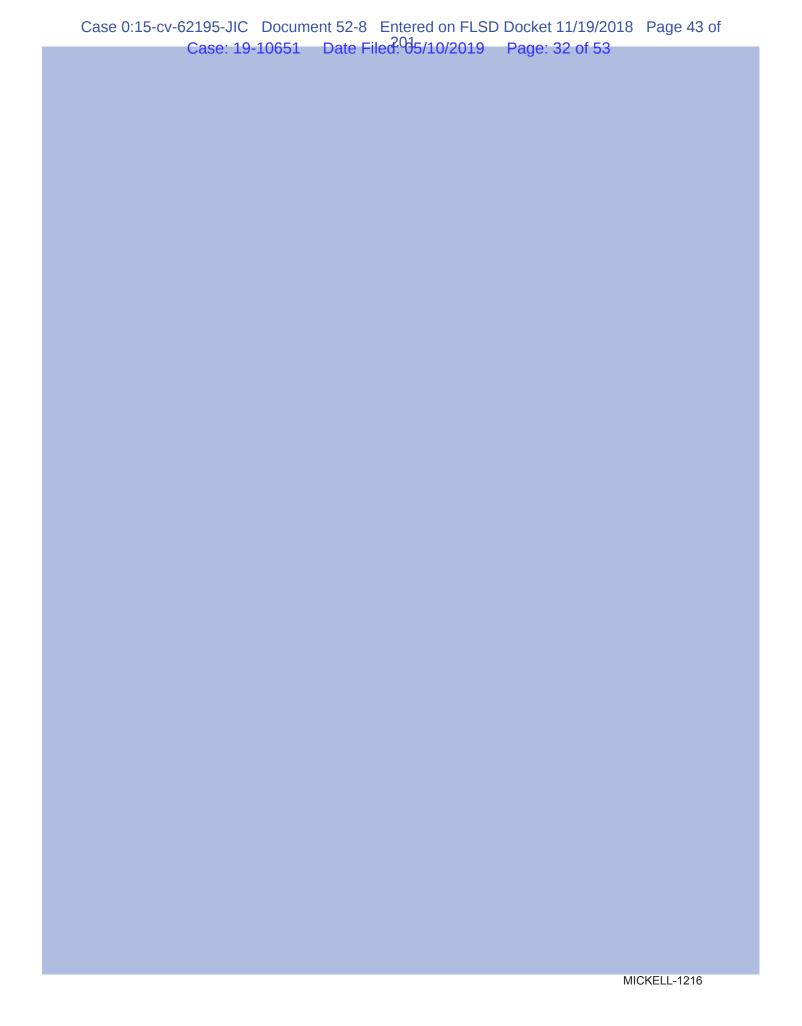
Sent: Friday, April 10, 2015 1:35 PM

To: 'mick4life92@yahoo.com'

Cc: Mindy Chmielarz Subject: Appointments

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1





NFL Player Disability & Neurocognitive Benefit Plan

200 Saint Paul Street, Suite 2420 | Baltimore, MD 21202 | 800-638-3186 | Fax 410-783-0041

April 10, 2015

Mr. Darren Mickell 9250 Chelsea Dr. Miramar, FL 33025

Re: Application for Disability Benefits
Confirmation and Scheduling of Required Medical Examination

Dear Mr. Mickell:

We write to confirm that your medical examination has been scheduled as follows:

Appointment Date/Time:

Monday, April 27, 2015 8:30am-6:00pm

Physician: Specialty:

Sutapa Ford, Ph.D. Neuro-Psychologist

Location: Carolina Headache Institute, PA

6114 Fayettteville Road Durham, NC 27713 (919)942-4424

On the day of your appointment, be sure to bring one form of photo identification with you to the examination and, after checking in at the facility, inform the receptionist that you are scheduled to see the physician identified above for purposes of a neutral examination conducted on behalf of the Bert Bell/Pete Rozelle NFL Player Retirement Plan.

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as your application for disability benefits may be denied if you fail to attend the scheduled examination.

If you have any questions, please contact the Plan Office.

Very truly yours,

Elton Banks

Benefits Coordinator

cc: Mindy Chmielarz

Enclosure



NFL Player Disability & Neurocognitive Benefit Plan

200 Saint Paul Street, Suite 2420 | Baltimore, MD 21202 | 800-638-3186 | Fax 410-783-0041

April 10, 2015

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Re: Application for Disability Benefits

Confirmation and Scheduling of Required Medical Examination

Dear Mr. Mickell:

We write to confirm that your medical examination has been scheduled as follows:

Appointment Date/Time:

Wednesday, April 15, 2015 10:00am

Physician:

Peter Dunne, M.D.

Specialty: Location:

Neurologist 13801 North Bruce B Downs Blvd.

Tampa, FL 33613

(813)9880946

On the day of your appointment, be sure to bring one form of photo identification with you to the examination and, after checking in at the facility, inform the receptionist that you are scheduled to see the physician identified above for purposes of a neutral examination conducted on behalf of the Bert Bell/Pete Rozelle NFL Player Retirement Plan.

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Elton Banks

Benefits Coordinator

cc: Mindy Chmielarz

Enclosure



NFL Player Disability & Neurocognitive Benefit Plan

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Re: Application for Disability Benefits
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Dear Mr. Mickell:

We write to confirm that your medical examination has been scheduled as follows:

Appointment Date/Time:

Wednesday, April 14, 2015 11:15am

Physician:

George H. Canizares, M.D.

Specialty:

Orthopaedist

Location:

All Florida Orthopaedist St. Petersburg, FL 33703

(727)527-5272

On the day of your appointment, be sure to bring one form of photo identification with you to the examination and, after checking in at the facility, inform the receptionist that you are scheduled to see the physician identified above for purposes of a neutral examination conducted on behalf of the Bert Bell/Pete Rozelle NFL Player Retirement Plan.

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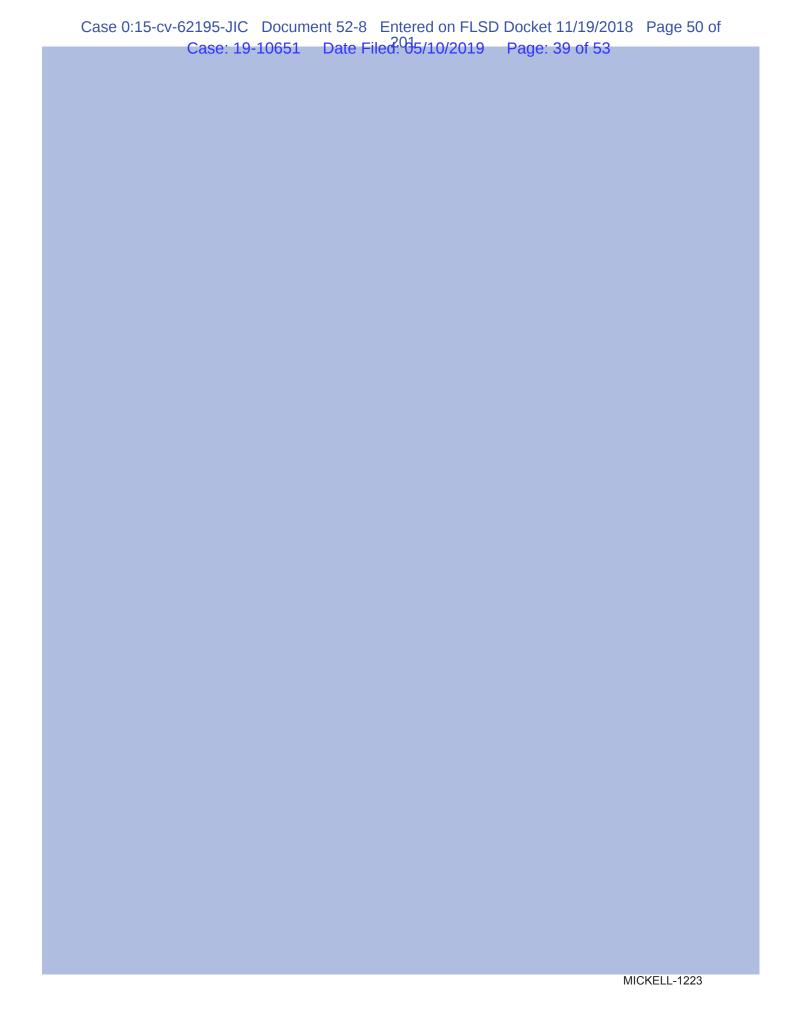
Very truly yours,

Elton Banks

Benefits Coordinator

cc: Mindy Chmielarz

Enclosure





Bert Bell/Pete Rozelle **NFL Player Retirement Pla**n



00 Saint Paul Street • Suite 2420 • Baltimore, Maryland 2121 410-685-5069 • 800-638-3186 • Fax 410-783-0041

Total & Permanent Disability Benefits

APR 27 2015

PHYSICIAN'S REPORT FORM

NFL PLAYER BENEFITS

Notice to Physician: To preserve your independence and the integrity of the decision-making process; you must avoid contacts with attorneys or other representatives of the player seeking disability benefits from the Bert Bell/Pete Rozelle NFL Player Retirement Plan. Please notify Rose Mary Eves or Paul Scott at the Plan Office (Tel. No. (800)638-3186) if you are contacted by any of these individuals.

To Be Completed By Plan	n Office:	
1. Player's Name Darren Mickell		Date of Birth1970
2. Address 9250 Chelsea Dr., Ma	iramar, FL 33025	
3. Credited Seasons <u>1992-1997</u>	, 1999-2000	Telephone <u>(954)544</u> -8203 M
4. When did you first examine the	player? 4/15/2015	
5. Have you or have any of your pa	ortners ever treated the pla	ayer? Yes No <u>Xn/a</u>
6. What is the nature of the impair	ment? N/A	
7. Impairment Information (attach	additional sheets if neces	sary)
Impairment to:	Impairment results from:	Has the impairment persisted or is it expected to perist for at least 12 months from the date of its occurrence?
	□ Illness	☐ Yes
	□ Injury	□ No
•	□ Unknown	☐ Cannot be determined
	□ Illness	☐ Yes
	☐ Injury	□ No
	☐ Unknown	☐ Cannot be determined
,	□ Illness	∵ Yes
	□ Injury	□ No
	□ Unknown	☐ Cannot be determined
	□ Iilness	☐ Yes
	☐ Injury	□ No
	□ Unknown	☐ Cannot be determined

Peter B. Dunne, M.D. (Neutral Neurologist)

Case 0:15-cv-62195-JIC Document 52-8 Entered on FLSD Docket 11/19/2018 Page 52 of Case: 19-10651 Date Filed: 05/10/2019 Page: 41 of 53

8. In yo engage	our opinion, is the patient totally disabled to the extent that he is substantially unable to in any occupation for remuneration or profit? Not neurologically.
	Yes NoX
If you	checked Yes:
•	Specify the medical conditions and how these conditions prevent the Player from working
•	How long do you estimate the Player will be unable to be gainfully employed at any occupation?
If you	checked No:
•	In what type of employment can he engage? Sedentary. No heavy lifting.
9. Add	itional remarks by physician Neurologically not presently disabled.
	itional remarks by physician Neurologically not presently disabled. attach the required Medical Report with this form.
Please	
Please	attach the required Medical Report with this form.
Please	attach the required Medical Report with this form. ian's Name (typed or printed): Address 13801 North Bruce B. Downs Blvd.
Please	attach the required Medical Report with this form. ian's Name (typed or printed): Address 13801 North Bruce B. Downs Blvd.
Please	attach the required Medical Report with this form. ian's Name (typed or printed): Peter B. Dunne, M.D. Address 13801 North Bruce B. Downs Blvd. Suite 401
Please Physic	attach the required Medical Report with this form. ian's Name (typed or printed): Address 13801 North Bruce B. Downs Blvd. Suite 401 Tampa, FL 33613

Case: 19-10651 Date Filed: 045/10/2019 Page: 42 of 53

RECEIVED

APR **2 7** 2015

REPORT ON DARREN MICKLE. EXAMINATION APRIL14, 2015

NFL PLAYER BENEFITS

Mr. Mickle was examined on this date. He was very cooperative and appeared to give full effort on all testing including The Montreal Cognitive Assessment.

ASSESSMENT: His major problems appear to be orthopedic-especially knees, but also fingers, ankles, elbows, and possibly back. He appears to be depressed though he tries to hide it. He began to cry when talking about his limitations and frustrations. He turned away, apologized, and tried to minimize this. I don't believe his past remote history of syphilis is relevant. (NO evidence of CNS Lues suggested by exam.)

Cognition: He is having problems by history with memory, losing his way while driving even in familiar locations, losing his train of thought quite frequently, and is distractible. This could be all depression, but also appears to have cognitive component. I have the impression it is a combination of both. On his MOCA he scored 25 out of 30. His "Visuospatial" copy of the rectangle is severely abnormal. (copy enclosed).

Neurological Exam: Was essentially Within Normal Limits except for absent ankle reflexes bilaterally, he cannot hop on either leg due to his knees. He was very diaphoretic in a cool room, especially forehead. He has some posterior cervical and occipital muscle spasm to palpation. (Trigger Points).

REVIEW OF PAST MEDICAL CARE: Many pages documenting various orthopedic problems.

4/27/1993: Multiple Serological test for syphilis "Positive". (1992 Serology Negative) He was treated with multiple doses of Benzathine Penicillin.

In 4/22/1994 Serology was still positive, Quantitative: 1:2.

1997 & 4/27/2000: Serology Negative.

Review of Systems: Over the years covered he denied Headaches, loss of memory, Loss of Consciousness, Injury to his head, or Dizziness. However, he does recall one time when he briefly left the game because of brief confusion after head contact.

Neuropsychological Exam 5/09/2014 by Mark E. Todd. Basically concludes as I do that he: "does have a mild cognitive disorder."

I agree with this. It is hard to tell in this case what is depression and what is possible cognitive damage due to head trauma.

CONCLUSION: Neurologically Mr. Mickle has no deficits other than absent ankle jerks. He may have mild cognitive problems but they should not impact neurologically his employability.

SUGGESTED PLAN: (these suggestions are over-all and not necessarily Neurological)

- 1. Possibly repeat Neuro-psychological testing
- 2. Regular Fitness plan. I suggested to him "water running". He does have a pool he can use. With supportive vest and foot resistance there is no weight bearing.
- 3. He needs psychological support.

- 4. He should be tested with overnight monitoring for sleep pattern including sleep apnea. (He reports poor sleep, goes to be around 2a.m., wakes up around 6 or 7 a.m. This is hardly conducive to combatting depression!)
- 5. Given home program for Headaches (Heat, massage, ice packs, relaxing exercises for neck and shoulders). A tri-cyclic anti-depressant may often be helpful with headaches.
- 6. He needs an anti Depressant.
- 7. Because of sweating he should have his thyroid checked. This may be anxiety sweating but it needs to be checked out.
- 8. I am not sure an MRI of the brain would be helpful in diagnosis or treatment, but should consider it.
- 9. Orthopedic consult, anything further that could be done for his joint problems?
- 10. Could do Spinal Fluid exam checking cells, protein, serology for evidence of CNS Syphilis but, although blood serology may return to normal (negative) and cerebrospinal fluid can be found abnormal in some cases that is a "long shot" here
- 11. I am enclosing with this report the various NFL forms.

Very sincerely yours,

Peter B. Dunne, MD Consulting Neurologist

LLE L 15000665561 EIN 47-3714599

NFL PLAYER SUPPLEMENTAL DISABILITY PLAN NEUROCOGNITIVE BENEFIT NEUROLOGY REPORT FORM

Player Name:
Chief Complaints: 1) 17.A. Similars Conitatals 2) Concentration, memory 3) Anxiety recently 1 day blow nose, consults hreather almost point estable 4) Places my war so loved - angry 5) Depressed 6)
Neurophysical Symptoms: Weakness Dizziness Vertigo Hearing Loss Tinnitus Loss of smell or taste / hearing Visual complaints (e.g. double vision, blurring) Speech changes (e.g. dysarthria) Imbalance Incoordination Tremor Seizures XHeadache Dysphagia Gait disturbance Numbness/Tingling Pain Facial weakness Upper extremity weakness Vother Comments: Statistical as he descarded symptoms \ Statistical Statistical as he descarded symptoms
Cognitive Symptoms:

Behavioral Symptoms: Sometimes Fatigue X Depression X Irritability X Impulsivity Disinhibition XAggression XAnxiety Apathy Personality changes Sleep Disturbances Euphoria/ hypomania Other Comments: Functions of a stuff to do, formul On mymindle Cont attitud & 5 at florida
Just con't Sleep. Sometimes oful pand notes I grat when asleys.
Just cont steep somewies of it pand vales of frate walknastup,
Instrumental Activities of Daily Living:
Check writing, paying bills,
balancing a checkbook /// o
Assembling tax records, business
affairs, or papers
Shopping alone for clothes.
Household necessities, or groceries 4
Playing a game of skill, working
on a hobby t Shing
Heating water, making a cup of
coffee, turning off the stove
Preparing a balanced meal
Keeping track of current events Sont of
Paying attention to, understanding,
discussing a TV show, book, or magazine
Remembering appointments, family occasions, holidays, medications
Traveling out of the neighborhood, driving, arranging to take public transportation when Dindring smetting forget
when Imging to by exits
Functional Activities of Daily Living:
Eating
Bathing
Dressing
Toileting Transferring (walking)
Continence

PAST MEDICAL HISTORY

Medical Conditions:
Diabetes Hypertension Heart disease Stroke Anemia Thyroid disease Cancer Kidney disease Liver disease Lung disease Arthritis Psychiatric
diseaseLearning Disabilities ADHDOther
Comments:
Surgeries:
Mutiple orthopedia
History of Seizures: (NG)
Onset:
Date of Last seizure:
Type:
Medications:
History of Head Trauma: Enoched unconscious dozed not out
aloged not out
Past Hospitalizations:
Prior Neurological or Neuropsychological Exams:No Comments: 2014

History of Restraining Order or Criminal Justice ContactYes _X_No
Dates and Circumstances:
FAMILY HISTORY:
Dementia, AD, Parkinson Disease, Seizures, othersYesXNo Great grand-dad mild-did at 98 y
SOCIAL HISTORY
Employment, Living Arrangements, Marital Status, Legal History, and Hobbies fishing No Great grandratter Single Lives with him
REVIEW OF SYSTEMS:
Skin: Diaphyretre. Eyes: Head: #A Vertey Torretine Temples-bilat. Steady
Lungs: N Thurbs MJ.: helps Cardiac: N Colm down Gastrointestinal: N
Endocrine: Urinary: Comments: Its z Cubn Knees, save all digit.
- Confirmence -

Medication and Substance Abuse History: Current Medications:
Alcohol History: (age first used, amount, frequency, duration, last use) Week and 2-3 been
Steroids History(Age first used, amount, frequency, duration, last use)
Drug History playing hall CocaineOpiatesStimulantsHallucinogensEcstasyLSD PCPAbuse of Prescribed MedicationsOther
Comments: (age first used, amount, frequency, duration, last use) Loun when mind rowing
Past Psychiatric History:
Past Psychiatric Visits/Psychotherapy/Counseling:No Comments:
Past Psychiatric Hospitalizations:
Suicide Attempts: History?YesNo Thoughts?YesNo
Comments: Thought about it Take care of great grand mother
History of Aggression/ViolenceYes _X_No
Dates and Circumstances:

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GENERAL MEDICAL EXAMINATION

is NSR
Vital Signs: BP 30/7 Pulse (a) 'Respirations
Vital Signs: BP 30 Pulse @ Respirations Skin:
HEENT: WAL
Neck: Slight decreesed Rose-acceptained militardes trigger point
Cardiac: NSR
Lungs: Clear to P+A
Abdomen: soft Some stated merks No Co.S.
Back: WN 45
Extremities: Various digit aline en 5th obeit

NEUROLOGICAL EXAMINATION
Handedness:LeftRight
Cranial Nerves: I: Intact Yes_W No_ Not Tested_V Describe Abnormality
II: Intact Yes V No Not Tested Describe Abnormality
III/ IV/ VI: Intact Yes V No Not Tested Describe Abnormality
V: Intact Yes No Not Tested Describe Abnormality
VII: Intact Yes No Not Tested Describe Abnormality
VIII: Intact Yes No_ Not Tested Describe Abnormality
IX/X: Intact Yes_V No_ Not Tested Describe Abnormality
XI: Intact Yes No Not Tested Describe Abnormality
XII: Intact Yes/ No Not Tested Describe Abnormality

Frontal Lobe Release Signs:
Yes No_ v Snout Glabellar Jaw Jerk Palmomental
Describe Abnormality
Motor: Atrophy: Yes No (Mild Moderate Severe) Describe Abnormality
Tremor: Yes No_v (Resting Postural Intention) Describe Abnormality
Tone: Normal Abnormal Describe Abnormality
Strength Upper Extremities: Normal Abnormal Describe Abnormality
Strength Lower Extremities: Normal Abnormal Describe Abnormality
Coordination: Normal Abnormal Describe Abnormality Cont hap either leg atherise was
Reflexes: Upper Extremities: Normal Abnormal Describe Abnormality Abnormal
Describe Abnormality Abnormal Abnormal Abnormality Absent ANKLE Jecks
Babinski: Normal Abnormal Describe Abnormality

COGNITIVE EXAM (MOCA)

Total MOCA Score	25 /30 (attach	assessment form)		
Visuospatial, Naming: Attention:	/Executive: Digits Letters Serial 7s	/5 /3 /2 /1 _/3		
Language:	Repeat Fluency	/3 /2 /1		
Abstraction:		/2		
Delayed Rec	all:	/5		
Orientation:		/6		
Other cognitive test	ing:			
			· · · · · · · · · · · · · · · · · · ·	

PSYCHIATRIC / BEHAVIORAL EXAMINATION	
Appearance:	
$\underline{\chi}$ Well Groomed $\underline{\hspace{0.5cm}}$ Disheveled $\underline{\hspace{0.5cm}}$ Unkempt	
Interaction:	
Pleasant/CooperativeHostileWithdrawnWaryEye contact	
Commments:	
Reported Mood:	
Sad/DepressedAnxious/AngryEuthymic	
Affect:	
AppropriateIrritableSad/DepressedConstrictedElated/Euphoric	
Commments:	
Speech:	
XNormal rate/rhythmPressuredSlowedLogorrheaPaucity of Speech	
CircumstantialTangential	
Commments:	
Thought Content:	
Suicidal Ideations: YesNo	
Comments:	
Homicidal Ideations: Yes_No_The Commissioner nothillhim in	L _11
Comments: [Re Commissioner Mot Milhim in	W stoke
Delusions. res No_/\	un.
Comments:	
Paranoid Ideations: Yes No_X	
Comments:	
Preoccupations: Yes No_ * _	
Comments:	
Thought Processes:	
Linear Tangential Loose Associations Disorganized	
Comments: WWL	
Perception: Hallucinations: No Yes	
Comments: Motor:	
Psychomotor Agitation Yes No X	
Comments:	
Psychomotor Retardation Yes No_*	
Comments:	
Insight:	
Good_\(\sigma\) Fair Poor	
Comments:	
Judgment:	
Good_X Fair Poor	
Comments:	